

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	
ACTAVA TV, INC., et al.,	:	Docket #1:18-cv-06626-
	:	ALC-KNF
Plaintiffs,	:	
- against -	:	
JOINT STOCK COMPANY "CHANNEL ONE	:	New York, New York
RUSSIA WORLDWIDE," et al.,	:	February 8, 2019
Defendants.	:	TELEPHONE CONFERENCE
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PROCEEDINGS BEFORE
THE HONORABLE JUDGE KEVIN N. FOX,
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

APPEARANCES:

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electronic sound recording;
Transcript produced by transcription service

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E X A M I N A T I O N S

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-Direct</u>	<u>Re-Cross</u>
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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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None

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THE CLERK: Actava TV, Inc., et al v. Joint Stock
Company "Channel One Russia Worldwide," et al; case No. 18-
cv-6626.

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Counsel, please state your appearance.

6

MR. TOBY BUTTERFIELD: Good morning, your Honor.
This is Toby Butterfield; I'm on the line with my
colleague, Michael Rosenberg, and we represent plaintiffs.
We're from the firm, Moses & Singer.

10

MR. HARDIN ROWLEY: Good morning, your Honor. My
name is Hardin Rowley, and I'm here with Ray Dowd and Akbar
Kahn, who is not admitted to practice yet but is a clerk
with the firm. And we're representing the defendant
channels.

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HONORABLE KEVIN N. FOX (THE COURT): Good
morning. This is Judge Fox.

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The plaintiff wrote to me complaining about the
responses to discovery demands. Has there been any change
in circumstances since the writings were sent?

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MR. BUTTERFIELD: Unfortunately -- this is
Mr. Butterfield -- unfortunately not, your Honor. Since we
last wrote we've attempted to conduct the meet-and-confer
that I believe Mr. Dowd's letters said was required before
contacting the Court. Of course, this is after we'd
already obtained an order from Judge Carter on the motion

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2 to compel. But, anyway, my emails back -- the emails I
3 received back from Dunnington law firm, they all said it
4 appears we will be unable to conduct another conference
5 before speaking to Judge Fox. And that's despite the
6 adjournment that was requested. So we've not change,
7 unfortunately.

8 THE COURT: All right. As I --

9 MR. ROWLEY: Your Honor, I respectfully disagree
10 with that. We offered to meet and confer. The plaintiffs
11 rejected that offer. And since that rejection, we produced
12 documents. And I think our objections were reasonable.
13 And they won't confer with us, and they didn't before
14 submitting this letter.

15 THE COURT: When you say you --

16 MR. BUTTERFIELD: We received three documents.

17 THE COURT: When you say you submitted documents,
18 are these beyond the documents that were referenced in
19 response to, I think, two discovery demands only?

20 MR. ROWLEY: We produced documents in response to
21 those demands, yes, your Honor.

22 THE COURT: To those two? Am I understanding
23 correctly?

24 MR. ROWLEY: We've only -- we produced documents
25 in response to the two discovery requests we did not object

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2 to.

3 THE COURT: Okay. All right, so as I reviewed
4 the correspondence that went to Judge Carter, the plaintiff
5 requested that the Court direct the defendants to respond
6 to the discovery demands. The order that Judge Carter
7 issued directs the defendant to respond. The defendant did
8 respond. The plaintiff doesn't like the response. And in
9 such a situation, Rule 37 tells you how you can proceed.
10 So if you want to make a motion under Rule 37, the
11 plaintiff is free to do that.

12 MR. BUTTERFIELD: We may do that, your Honor. But
13 I think that it's not quite accurate to say that the
14 defendants responded. The documents that they served
15 stated they were objection. And we haven't received
16 actually responses to any of the interrogatories.

17 THE COURT: The objection is a response. They
18 object to giving you whatever you're requesting. That's
19 the response. You don't like the response. And Rule 37
20 tells you what you can do in such a circumstance as that.

21 MR. BUTTERFIELD: Very well. We shall do so.

22 THE COURT: Very well.

23 Let's move now to the question of a schedule for
24 pretrial activities, which was also a matter raised in
25 correspondence. What is it that prevents you from being

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2 able to talk about and present jointly to me a schedule of
3 the activities you need to complete pretrial?

4 MR. BUTTERFIELD: Succinctly, your Honor -- this
5 is Mr. Butterfield -- we proposed dates for the conclusion
6 of the various stages of discovery. And in our -- the
7 Rule 26F conclusion -- the conclusion of the Rule 26F
8 conference with defendants' counsel, they indicated that
9 they would provide their proposed dates for the conclusion
10 of those different stages of discovery. That was several
11 weeks ago; and despite follow-up, we haven't received
12 anything. So we can't submit a joint application. We
13 could file something with you saying that we propose, but
14 unfortunately, we're not getting any responses and we're
15 not -- when we propose a meet-and-confer call to talk about
16 it, we are told that appears to be not possible. So here
17 we are.

18 THE COURT: All right, let me hear from defense
19 counsel on that score.

20 MR. ROWLEY: Your Honor, I think there was some
21 miscommunication. The partner that was working on this is
22 now on paternity leave, and we can do the dates right now
23 if that's easier on -- we can talk with plaintiffs' counsel
24 immediately after the call. So we apologize for that.

25 THE COURT: I'll take direction from you. What

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2 is your pleasure? Do the parties want to confer outside my
3 presence and then submit to me your proposal, or do we need
4 to talk about dates, milestone dates right now?

5 MR. BUTTERFIELD: I -- this is Mr. Butterfield --
6 I'm fine if Mr. Hardin [sic] is prepared to call us
7 straight after this call so that we can hear what they
8 propose. We'll put it into our draft proposed order, and
9 we'll submit it shortly. I think we don't need to take the
10 Court's time for that. I accept what Mr. Hardin, that
11 he'll call me straight afterwards.

12 THE COURT: Excellent.

13 MR. ROWLEY: And I will do that, your Honor.

14 THE COURT: All right. Those are the matters
15 that were raised in the correspondence that I wanted to
16 address with you this morning. Thank you very much. Good
17 day.

18 MR. ROWLEY: Thank you, your Honor.

19 MR. BUTTERFIELD: Thank you, your Honor.

20 THE COURT: You're welcome.

21 (Whereupon, the matter is adjourned.)

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3 C E R T I F I C A T E

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5 I, Carole Ludwig, certify that the foregoing
6 transcript of proceedings in the case of Actava TV, Inc.,
7 et al v. Joint Stock Company "Channel One Russia
8 Worldwide," et al, Docket #18-cv-06626, was prepared using
9 digital transcription software and is a true and accurate
10 record of the proceedings.

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Signature

Carole Ludwig

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Carole Ludwig

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Date: March 30, 2019

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